

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jacqueline Levy(F)	Team: Team # 2	CCRB Case #: 201308407	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 08/29/2013 8:39 PM	Location of Incident: § 87(2)(b)	Precinct: 69	18 Mo. SOL 2/28/2015	EO SOL 2/28/2015	
Date/Time CV Reported Tue, 09/03/2013 1:15 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 09/10/2013 3:10 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Quentin Saxon	05172	947466	069 PCT
2. SGT Abraham Badillo	00568	936162	069 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Victor Pagan	25394	946526	069 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Abraham Badillo	Abuse: Sgt. Abraham Badillo entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.POM Quentin Saxon	Discourtesy: PO Quentin Saxon spoke discourteously to § 87(2)(b)	§ 87(2)(b)

### Case Summary

On September 3, 2013, § 87(2)(b) filed this complaint with IAB by telephone (encl. 4A-B). It was received at the CCRB on September 10, 2013, via log number 13-38191 (encl. 5A-B). On August 29, 2013, Sgt. Abraham Badillo, PO Quentin Saxon, and PO Victor Pagan of the 69<sup>th</sup> Precinct responded to § 87(2)(b) in Brooklyn and arrested § 87(2)(b). The following allegations resulted:

- **Allegation A – Abuse of Authority: Sgt. Abraham Badillo entered and searched** § 87(2)(b) **in Brooklyn.** § 87(2)(b)
- **Allegation B – Discourtesy: PO Quentin Saxon spoke discourteously to** § 87(2)(b) § 87(2)(b), § 87(2)(g)

### Results of Investigation

#### Civilian Statements

##### Complainant/Victim: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) *old at the time of the incident, is a black man who stands 5’9” tall, weighs 180 pounds, and has black hair and brown eyes.*
- *At the time of the interview,* § 87(2)(b)

##### CCRB Testimony

On September 12, 2013, § 87(2)(b) provided a telephone statement (encl. 6A). On September 19, 2013, § 87(2)(b) was interviewed at the CCRB (encl. 6B-K). His statements were generally consistent and are summarized below.

On August 29, 2013, at 8p.m., § 87(2)(b) was alone in his cousin’s § 87(2)(b) § 87(2)(b) room in his residence located at § 87(2)(b) § 87(2)(b) in Brooklyn. § 87(2)(b) saw a flashlight shining into the window and looked out to see PO Quentin Saxon of the 69<sup>th</sup> Precinct standing in the backyard. PO Saxon was described as a black man, dark complexion, 6’3” tall, late 30s, average body build, black hair, goatee, and in uniform; his name was visible on his uniform. PO Saxon told § 87(2)(b) to open the front door. § 87(2)(b) tenant, § 87(2)(b) was also in the house, in one of the second floor rooms. There are three rooms on the second floor and two of the rooms are vacant. § 87(2)(b)’s room is located towards the right of the second door entrance.

§ 87(2)(b) walked towards the front of the house and opened the door. PO Saxon was standing with PO Victor Pagan and Sgt. Abraham Badillo of the 69<sup>th</sup> Precinct. PO Pagan was described as a uniformed white or Hispanic man, in his late 30s, with a receding black hair. Sgt. Badillo was described as a uniformed male officer in his mid-30s, with a stocky build. PO Saxon immediately grabbed one of § 87(2)(b)’s hands and told him to get the “fuck” out. § 87(2)(b) was surprised and pulled his arm back. The officers pulled § 87(2)(b) out of the location.

PO Saxon and PO Pagan walked further into the house. § 87(2)(b) sat on the front entrance floor while Sgt. Badillo watched him. § 87(2)(b) could not see what the officers were doing in the back. He assumed they were searching the living room and § 87(2)(b) § 87(2)(b) room. Sgt. Badillo handcuffed § 87(2)(b) and let him sit on the stairs. After approximately five minutes, PO Saxon and PO Pagan returned with an unspecified amount of marijuana. PO Saxon and PO Pagan walked back and forth between the back of § 87(2)(b)’s home and the front entrance approximately

three to four times. The last time PO Saxon and PO Pagan returned from the back of the house, they were holding bolt cutters. The bolt cutters had been stored inside a toolbox in § 87(2)(b) closet.

PO Saxon and PO Pagan then walked up the stairs to the second floor of the house. They knocked on the door and § 87(2)(b) said she was naked. § 87(2)(b) heard knocking again and one of the officers said, “We do not give a fuck, open the door.” § 87(2)(b) could hear the conversation, but could not see what was happening upstairs. § 87(2)(b) told § 87(2)(b) that she was in her towel and in her underwear and had to change in front of the officers. PO Saxon walked downstairs, past § 87(2)(b) with what appeared to be a half smoked marijuana cigarette. PO Saxon was talking to an officer § 87(2)(b) could not see and asked what are they are going to do with the marijuana. The officer said to add it to the mix. PO Saxon, PO Pagan, and Sgt. Badillo did not enter § 87(2)(b) s room.

§ 87(2)(b) was standing outside of the house when § 87(2)(b) was escorted to a police vehicle. PO Tomasz Fil of the 69<sup>th</sup> Precinct, who § 87(2)(b) knew from a prior interaction, was standing outside and did not enter the house. On August 23, 2013, and August 25, 2013, PO Fil and PO Saxon had come to the house with § 87(2)(b) who claimed to live at the property. The property had been abandoned and § 87(2)(b) § 87(2)(b) and § 87(2)(b) have made a legal claim to the property through the County Clerk’s office based on a theory of adverse possession. Notice of this was posted at the location for four months. § 87(2)(b) has helped clean up the property, investing his own money to maintain the property. He stated that § 87(2)(b) has not lived at the location for four years. He lived on the property for four months and two weeks prior to the incident. § 87(2)(b) pays rent to § 87(2)(b) § 87(2)(b) was aware that § 87(2)(b) had a mortgage with Bank of America, and § 87(2)(b) believed that § 87(2)(b) had defaulted on the mortgage. Each time § 87(2)(b) arrived with PO Fil and PO Saxon, § 87(2)(b) provided his legal documents showing his legal claim to the property and said the dispute with § 87(2)(b) was a civil matter. § 87(2)(b) and PO Fil and PO Saxon left the property each time. § 87(2)(b) noted that he and § 87(2)(b) receive mail at the property, including cable bills. § 87(2)(b) later informed § 87(2)(b) that she had seen § 87(2)(b) outside when § 87(2)(b) was arrested, but § 87(2)(b) had not seen her. § 87(2)(b) was transported to the 69<sup>th</sup> Precinct stationhouse. On August 27, 2013, § 87(2)(b) § 87(2)(b) had been arrested at the location.

**Witness:** § 87(2)(b)

- *At the time of the incident, § 87(2)(b) resided on the second floor of § 87(2)(b) Brooklyn.*

**Telephone Statement**

On October 2, 2013, § 87(2)(b) provided a telephone statement (encl. 7). Her statement was generally consistent with § 87(2)(b) s to the extent she witnessed the incident.

§ 87(2)(b) was sleeping in her rented room at the location. She heard loud banging on her door. PO Pagan and PO Saxon banged on her door and yelled for her to open the door. When § 87(2)(b) opened the door, PO Pagan and PO Saxon asked her who she was and if she lived at the location. They told § 87(2)(b) that they were investigating a burglary. The officers asked her whether she was paying rent. § 87(2)(b) said she rented a room and had been living there for approximately one month. The officers recovered an unspecified quantity of marijuana from her room. § 87(2)(b) saw § 87(2)(b) who she knows as ‘H’, handcuffed and sitting on the stairs leading to her room upstairs.

**Witness:** § 87(2)(b)

- § 87(2)(b) is the owner of § 87(2)(b), Brooklyn.

### **Telephone Statement**

On January 23, 2014, § 87(2)(b) provided a telephone statement (encl. 8). She provided the following information regarding the incident and status of the location.

§ 87(2)(b) was present when both individuals were arrested at § 87(2)(b). One was arrested on August 27, 2013, and the other, known through investigation to be § 87(2)(b) was arrested on August 29, 2013. On August 29, 2013, there were initially two officers and two more officers arrived later. They knocked on the door and initially there was no answer. § 87(2)(b) recalled that § 87(2)(b) had been smoking on the second floor. Eventually he answered the door. § 87(2)(b) was across the street and could not hear or see most of what happened.

§ 87(2)(b) owns the property. In approximately April 2013, she learned that § 87(2)(b) and the other individual had broken into the location and were living there. Utilities had been turned on and a family member had observed someone in the house and informed her. To her knowledge, no one has made a civil claim with regards to the property. § 87(2)(b) never installed locks on the doors. She obtained an order of protection saying that § 87(2)(b) had to stay away from her and her property.

### **NYPD Statements**

#### **Subject Officer: SGT ABRAHAM BADILLO**

- *Sgt. Badillo, § 87(2)(b)*
- *On August 29, 2013, Sgt. Badillo worked from 1:50 p.m. to 10:47 p.m. He was the SNEU sergeant and was working with PO Pagan. He was in uniform and assigned to an unmarked black Ford Fusion.*

#### **Memo Book** (encl. 14A-B)

At 8:28 p.m., Sgt. Badillo stopped one male inside of § 87(2)(b). At 9 p.m., the individual was under arrest.

#### **CCRB Testimony** (encl. 15A-C)

On February 4, 2014, Sgt. Badillo was interviewed at the CCRB.

On August 29, 2013, at 8 p.m., Sgt. Badillo, PO Pagan, and PO Saxon responded to § 87(2)(b) in Brooklyn in regards to a phone call from the command about a possible burglary. He was told that some people were breaking into the house. When they responded, they surveyed the exterior of the house, including the side and back, to determine if anyone was inside. Sgt. Badillo saw movement in the house, which appeared to be a two family home.

Sgt. Badillo, PO Pagan, and PO Saxon went to the front door. Sgt. Badillo observed that a chain on the door had been cut. § 87(2)(b) answered the door. Sgt. Badillo asked § 87(2)(b) what he was doing at the location. § 87(2)(b) said something about him being a “sovereign” and stated that he “proclaimed the land.” § 87(2)(b) provided some legal terms that Sgt. Badillo was not familiar with and did not recall at the time of the interview.

§ 87(2)(b) walked into the house to a room where he appeared to be living based on the contents of the room. § 87(2)(b) showed Sgt. Badillo papers that § 87(2)(b) said indicated that he was the lawful owner of the house and stated that they had been filed with the city. Sgt. Badillo learned that § 87(2)(b)'s brother had been arrested the previous week at the location. Either PO Pagan or PO Saxon confirmed this.

PO Pagan and PO Saxon began to clear the house to see if anyone else was present. PO Saxon went upstairs and began speaking to the female upstairs resident. Sgt. Badillo went upstairs and

asked her what she was doing at the location and how long she had been living there. She stated that she had been paying rent to § 87(2)(b). Sgt. Badillo did not arrest her because she appeared to be a victim. Sgt. Badillo did not hear PO Saxon say, “We don’t give a fuck,” or any other profanities. Sgt. Badillo entered the second floor apartment to make sure there was no one else in the house. No contraband was recovered from the second floor.

Sgt. Badillo called his command and was instructed to speak to § 87(2)(b). Sgt. Badillo spoke with § 87(2)(b) who was across the street. She told Sgt. Badillo that the house was supposed to be vacant and was going to be repossessed by the bank. She stated that people had been breaking into the house. § 87(2)(b) had been arrested the previous week and she had chains put on in response.

Sgt. Badillo called the NYPD Legal Department because he was unsure as to what § 87(2)(b)'s statements regarding ownership of the house meant. He was told that he could arrest § 87(2)(b) for trespassing but not burglary. Sgt. Badillo went in and out of the house as he spoke to § 87(2)(b) and the NYPD Legal Department so that § 87(2)(b) did not hear him.

A bolt cutter was recovered from the room in which § 87(2)(b) was living, though Sgt. Badillo did not know where it had been recovered from; either PO Saxon or PO Pagan recovered it. A quantity of marijuana was observed in plain view in the room and was recovered as well.

§ 87(2)(b) was handcuffed probably before the bolt cutters were recovered, but definitely before he was removed from the house. § 87(2)(b) was never told to “get the fuck out of the house.” No profanities were used at any point while Sgt. Badillo was present. Sgt. Badillo had never responded to the location in the past.

#### **Subject Officer: PO QUENTIN SAXON**

- *PO Saxon, § 87(2)(b)*
- *On August 29, 2013, PO Saxon worked from 2 p.m. to 10:35 p.m. He was assigned to SNEU with PO Fil, was in uniform, and was assigned to an unmarked black sedan.*

#### **Memo Book** (encl. 12B-D)

At 8 p.m., PO Saxon responded to a burglary at § 87(2)(b). At 8:39 p.m., PO Pagan arrested § 87(2)(b).

#### **CCRB Testimony** (encl. 13A-C)

On November 20, 2013, PO Saxon was interviewed at the CCRB. His statement was generally consistent with Sgt. Badillo’s, except where noted.

PO Saxon went to the side of the house while Sgt. Badillo and PO Pagan knocked on the front door. When PO Saxon returned to the front door, Sgt. Badillo and PO Pagan were already inside. PO Saxon did not know how they gained entry to the location.

PO Saxon entered the house. He observed § 87(2)(b) on the first floor. § 87(2)(b) was not yet in handcuffs. PO Saxon went upstairs to the second floor to clear the rest of the house. PO Saxon knocked on the door of a room and § 87(2)(b) stated that she was not dressed. After a minute, she answered the door. PO Saxon did not tell her to get the “fuck” out of her apartment.

PO Saxon went back downstairs and watched § 87(2)(b) while Sgt. Badillo went outside to make a phone call. PO Saxon then handcuffed § 87(2)(b). PO Saxon did not go any further into the first floor beyond the first area where § 87(2)(b) was located. PO Saxon did not tell § 87(2)(b) “Get the fuck out of the house.” Neither PO Saxon nor any other officer used the word “fuck” at any point. Marijuana was recovered from the location by PO Pagan. PO Saxon did not know from where it was recovered.

PO Saxon had responded to the location before in regards to a burglary call and encountered § 87(2)(b) and § 87(2)(b) who was arrested. His partner at the time spoke to the owner of the

house and they determined that the dispute between § 87(2)(b) and the owner was a civil matter.

**Witness Officer: PO VICTOR PAGAN**

- *PO Pagan, § 87(2)(b)*
- *On August 29, 2013, PO Pagan worked from 2 p.m. to 11:35 p.m. He was Sgt. Badillo's operator, was in uniform, and was assigned to unmarked vehicle.*

**Memo Book** (encl. 9B-D)

At 8: 25 p.m., PO Pagan stopped § 87(2)(b) inside of § 87(2)(b). At 8:39 p.m., PO Pagan arrested § 87(2)(b).

**Complaint and Arrest Reports** (encl. 10A-E)

§ 87(2)(b) was arrested for trespassing, possession of burglar's tools, and possession of marijuana based on a complaint made by § 87(2)(b). It was noted that § 87(2)(b) had been a victim of a similar incident two days prior.

**CCRB Testimony** (encl. 11A-D)

On November 6, 2013, PO Victor Pagan was interviewed at the CCRB. His statement was generally consistent with Sgt. Badillo's and PO Saxon's, except where noted.

§ 87(2)(b) was standing a few houses away from the location and stopped PO Pagan and Sgt. Badillo. § 87(2)(b) told PO Pagan and Sgt. Badillo that someone was trespassing in her house. § 87(2)(b) showed PO Pagan and Sgt. Badillo legal documentation that she was the owner of the home.

PO Saxon and PO Fil arrived on the scene while PO Pagan was securing the rear of the house. PO Saxon and PO Fil went with Sgt. Badillo to secure the front of the house. PO Pagan saw § 87(2)(b) sitting in a rear room of the house that was being used as a bedroom. PO Pagan made eye contact with § 87(2)(b) and mouthed for him to open the front door. § 87(2)(b) gestured with his hands as if he was hiding something underneath the bed blankets. PO Pagan could see clearly into the house but could not see what § 87(2)(b) put under the blanket. § 87(2)(b) appeared to be speaking with someone who was not visible. When PO Pagan entered the home § 87(2)(b) was handcuffed. PO Pagan did not see how the other officers entered the home. He did not hear any officer say get the "fuck" out or use any profanities.

§ 87(2)(b) explained how he came and § 87(2)(b) came to be to the owners of the house. § 87(2)(b) did not show PO Pagan any paperwork regarding ownership of the house. The officers asked if there was anyone else in the house and § 87(2)(b) said that there was not. Because PO Pagan had seen what appeared to be § 87(2)(b) talking to someone in the back room, PO Pagan and PO Saxon conducted a protective sweep of the entire house. PO Pagan recovered an unspecified amount of marijuana underneath the bed blanket in the room in which he had observed § 87(2)(b). There were also some burglary tools, including bolt cutters, which were recovered from a small opening inside a room. The marijuana and burglary tools were both vouchered.

§ 87(2)(b) opened the door to a room on the second floor when PO Pagan and PO Saxon knocked. They told her that she was in the house illegally and it was possible that she was being scammed. PO Pagan told § 87(2)(b) that she had to get dressed, take her belongings, and leave the location, which she did. The officers used their discretion in not arresting § 87(2)(b). The rest of second floor was searched.

PO Pagan knew that someone had been arrested for burglary at the location two days prior because he was at the stationhouse when the arrest was processed.

### **Officer Not Interviewed**

Though PO Fil may have been present, based on all testimony, he was not in a position to witness the allegations.

### **Other Evidence**

#### **NYC Department of Finance Records** (encl. 20A-C)

Records indicate that § 87(2)(b) is the owner of § 87(2)(b) and the property taxes are billed to her.

§ 87(2)(b)

§ 87(2)(b) (encl. 21A-C).

### **Status of Civil Proceedings**

- § 87(2)(b) has not filed a Notice of Claim as of February 12, 2014, more than two months after the 90-day filing deadline (encl. 22).

### **Civilian Criminal History**

- As of March 25, 2014, Office of Court Administration records reveal no criminal convictions for § 87(2)(b) (encl. 23A-E).

§ 87(2)(b)

§ 87(2)(b)

### **Subject Officers CCRB History**

- Sgt. Badillo has been a member of the service for nine years and there are no substantiated CCRB allegations against him (encl. 2A-B).
- PO Saxon has been a member of the service for five years and there are no substantiated CCRB allegations against him (encl. 2C).

### **Conclusion**

#### **Identification of Subject Officers**

- Sgt. Badillo admitted to searching the location and was the supervisor on the scene. Therefore, allegation A is pleaded against Sgt. Badillo.
- § 87(2)(b) identified PO Saxon by reading his name on his uniform. Therefore, allegation B is pleaded against PO Saxon.

### **Investigation Findings and Recommendations**

#### **Allegations Not Pleased**

Though § 87(2)(b) alleged that one or more officers used profanities towards § 87(2)(b) did not repeat these allegations. Therefore, no discourtesy allegation is pleaded with regards to § 87(2)(b)

#### **Allegation A – Abuse of Authority: Sgt. Abraham Badillo entered and searched § 87(2)(b) in Brooklyn.**

It is undisputed that officers entered and searched the location and arrested § 87(2)(b) for trespassing, among other charges. § 87(2)(b) claimed that he owned the property after living there for approximately 18 weeks and improving the property under the legal theory of adverse possession. § 87(2)(b) the actual owner of the property, stated that she became aware of § 87(2)(b)'s presence in approximately April 2013.

The officers all stated that they were at the location to remove and arrest § 87(2)(b) for trespassing based on a complaint from § 87(2)(b) and that bolt cutters were recovered from the location. Sgt. Badillo added that it appeared that a chain on the door was cut in order to gain entry to the house. PO Pagan was aware that there had been a recent arrest for burglary at the location. New York City Department of Finance records show that § 87(2)(b) is the owner of the location.

Adverse possession, the theory under which § 87(2)(b) claimed ownership rights, requires that an individual possess the property under circumstances such that the actual owner of the property knew or should have known that it was being possessed and that the individual believe that he has a valid claim to the property. N.Y. RPA. Law, Sections 501, 512 (encl. 1A). The land must be exclusively occupied by the claimant for the statutory period of 10 years. Id., N.Y. C.P.L.R. Section 212(a) (encl. 1B). § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation B – Discourtesy: PO Quentin Saxon spoke discourteously to** § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) alleged that PO Saxon told him to get the “fuck” out of the location. PO Saxon denied this allegation and Sgt. Badillo and PO Pagan denied hearing PO Saxon make this statement. § 87(2)(b) was upstairs and thus would not have heard this statement. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Team:   2  

Investigator: \_\_\_\_\_ Jacqueline Levy \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_ \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_ \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_ \_\_\_\_\_



Title/Signature

Print

Date